

107TH CONGRESS
1ST SESSION

S. 1355

To prevent children from having access to firearms.

IN THE SENATE OF THE UNITED STATES

AUGUST 3, 2001

Mr. DURBIN (for himself, Mr. KENNEDY, Mr. LEVIN, Mr. REED, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To prevent children from having access to firearms.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Children’s Firearm Ac-
5 cess Prevention Act”.

6 **SEC. 2. CHILDREN AND FIREARMS SAFETY.**

7 (a) DEFINITION.—Section 921(a)(34)(A) of title 18,
8 United States Code, is amended by inserting “or remov-
9 ing” after “deactivating”.

1 (b) PROHIBITION.—Section 922 of title 18, United
 2 States Code, is amended by inserting after subsection (y)
 3 the following:

4 “(z) PROHIBITION AGAINST GIVING JUVENILES AC-
 5 CESS TO CERTAIN FIREARMS.—

6 “(1) DEFINITIONS.—In this subsection:

7 “(A) JUVENILE.—The term ‘juvenile’
 8 means an individual who has not attained the
 9 age of 18 years.

10 “(B) CRIMINAL NEGLIGENCE.—The term
 11 ‘criminal negligence’ pertains to conduct that
 12 involves a gross deviation from the standard of
 13 care that a reasonable person would exercise
 14 under the circumstances, but which is not reck-
 15 less.

16 “(2) PROHIBITION.—Except as provided in
 17 paragraph (3), it shall be unlawful for any person to
 18 keep a loaded firearm, or an unloaded firearm and
 19 ammunition for a firearm, any of which has been
 20 shipped or transported in interstate or foreign com-
 21 merce or otherwise substantially affects interstate or
 22 foreign commerce, within any premises that is under
 23 the custody or control of that person if that person
 24 knows or, with criminal negligence, should know that
 25 a juvenile is capable of gaining access to the firearm

1 without the permission of the parent or legal guard-
2 ian of the juvenile, and fails to take steps to prevent
3 such access.

4 “(3) EXCEPTIONS.—Paragraph (2) does not
5 apply if—

6 “(A) the person uses a secure gun storage
7 or safety device for the firearm;

8 “(B) the person is a peace officer, a mem-
9 ber of the Armed Forces, or a member of the
10 National Guard, and the juvenile obtains the
11 firearm during, or incidental to, the perform-
12 ance of the official duties of the person in that
13 capacity;

14 “(C) the juvenile obtains, or obtains and
15 discharges, the firearm in a lawful act of self-
16 defense or defense of one or more other per-
17 sons;

18 “(D) the person has no reasonable expecta-
19 tion, based on objective facts and cir-
20 cumstances, that a juvenile is likely to be
21 present on the premises on which the firearm is
22 kept;

23 “(E) the juvenile obtains the firearm as a
24 result of an unlawful entry by any person;

1 “(F) the juvenile was supervised by a per-
 2 son older than 18 years of age and was engag-
 3 ing in hunting, sporting, or another lawful pur-
 4 pose; or

5 “(G) the juvenile gained the gun during a
 6 time that the juvenile was engaged in an agri-
 7 cultural enterprise.”.

8 (c) PENALTIES.—Section 924(a) of title 18, United
 9 States Code, is amended by adding at the end the fol-
 10 lowing:

11 “(7)(A) Whoever violates section 922(z), if a juvenile
 12 (as defined in section 922(z)) obtains access to the firearm
 13 that is the subject of the violation and thereby causes
 14 death or serious bodily injury to the juvenile or to any
 15 other person, shall be fined not more than \$4,000, impris-
 16 oned not more than 1 year, or both.

17 “(B) Whoever violates section 922(z), if a juvenile (as
 18 defined in section 922(z)) obtains access to the firearm
 19 that is the subject of the violation shall be fined not more
 20 than \$500.”.

21 (d) ROLE OF LICENSED FIREARMS DEALERS.—Sec-
 22 tion 926 of title 18, United States Code, is amended by
 23 adding at the end the following:

24 “(d) CONTENTS OF FORM.—The Secretary shall en-
 25 sure that a copy of section 922(z) appears on the form

1 required to be obtained by a licensed dealer from a pro-
2 spective transferee of a firearm;

3 “(e) NOTICE OF CHILDREN’S FIREARM ACCESS PRE-
4 VENTION ACT.—A licensed dealer shall post a prominent
5 notice in the place of business of the licensed dealer as
6 follows:

7 “IT IS UNLAWFUL AND A VIOLATION OF
8 THE CHILDREN’S FIREARM ACCESS PRE-
9 VENTION ACT TO STORE, TRANSPORT, OR
10 ABANDON AN UNINSURED FIREARM IN A
11 PLACE WHERE CHILDREN ARE LIKELY TO
12 BE AND CAN OBTAIN ACCESS TO THE FIRE-
13 ARM.”.

14 (e) NO EFFECT ON STATE LAW.—Nothing in this
15 section or the amendments made by this section shall be
16 construed to preempt any provision of the law of any
17 State, the purpose of which is to prevent juveniles from
18 injuring themselves or others with firearms.

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